

ORIGINAL
FILE

MAY -3 PM 3:34

RICHARD L. FICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

2 EUMI L. CHOI (WVBN 0722)
3 Chief, Criminal Division

4 KYLE F. WALDINGER (ILSB 6238304)
Assistant United States Attorney

5 450 Golden Gate Avenue, 11th Floor
6 San Francisco, California 94102
7 Telephone: (415) 436-6830
Facsimile: (415) 436-7234

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)
13)
14 Plaintiff,)
15)
16 v.)
17)
18 LAURENT CHAVET,)
Defendant.)

No. CR 04-0218 SI

PLEA AGREEMENT

19 I, Laurent Chavet, and the United States Attorney's Office for the Northern District of
20 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
21 pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

22 The Defendant's Promises

23 1. I agree to plead guilty to Count Two of the captioned indictment charging me with
24 reckless damage to a protected computer causing loss aggregating at least \$5,000, in violation of
25 18 U.S.C. §§ 1030(a)(5)(A)(ii), 1030(a)(5)(B)(i) and 1030(c)(4)(B). I agree that the elements of
26 the offense and the maximum penalties are as follows: (1) the defendant intentionally accessed a
27 computer without authorization; (2) as a result of the defendant's access, the defendant recklessly
28 caused damage; and (3) the impairment of the system resulted in losses to one or more persons

PLEA AGREEMENT
CR 04-0218 SI

1 totaling at least \$5,000 in value at any time during a one-year period.

- 2 a. Maximum prison sentence 5 years
- 3 b. Maximum fine \$250,000
- 4 c. Maximum supervised release term 3 years
- 5 d. Mandatory special assessment \$100
- 6 e. Restitution As ordered by the Court
- 7 f. Other possible consequences of guilty plea, such as deportation

8 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
9 the following facts are true: From approximately June 1999 to February 2002, I was employed at
10 Alta Vista, a company located in the Northern District of California. At the time, Alta Vista was
11 a company whose primary product was a "search engine" that Alta Vista users could employ to
12 search the Internet. During my employment with Alta Vista, I was issued a confidential
13 username and password for access to Alta Vista's computer system. I understood that I was not
14 allowed to use other employees' usernames and passwords to access that system after I
15 terminated my employment with Alta Vista. I admit that Alta Vista's computer system was a
16 "protected computer," as that term is defined in 18 U.S.C. § 1030(e)(1) & (e)(2)(b), because Alta
17 Vista's computers were used to access and to search the Internet and, accordingly, were used in
18 interstate and foreign commerce and communication.

19 On or about June 1, 2002, I used the username and password of a then-current Alta Vista
20 employee to gain unauthorized access to Alta Vista's computer network from my home computer
21 in San Mateo. I had obtained that employee's username and password without his knowledge
22 and used it on or about June 1, 2002 without Alta Vista's authorization. During that period of
23 access, I admit that my actions on Alta Vista's computer system recklessly caused data files on
24 the Alta Vista computers referred to internally as the "Trek" computers to be deleted.

25 I admit that the damage that my recklessness caused to Alta Vista's computer system on
26 or about June 1, 2002 resulted in losses to Alta Vista of \$62,104.18 within a one-year period. I
27 admit that these damages reflect the bandwidth cost of the data gathering that subsequently had
28 to be performed by the Trek computers (\$53,265), as well as the Alta Vista's labor costs

1 associated with the deletion (\$8,839.18).

2 3. I agree to give up all rights that I would have if I chose to proceed to trial,
3 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
4 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
5 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
6 to pursue any affirmative defenses and present evidence.

7 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
8 the Court. I also agree to waive any right I may have to appeal any aspect of my sentence,
9 including any orders relating to forfeiture and/or restitution.

10 5. I agree not to file any collateral attack on my conviction or sentence, including a
11 petition under 28 U.S.C. § 2255, at any time in the future after I am sentenced, except for a claim
12 that my constitutional right to the effective assistance of counsel was violated.

13 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
14 entered.

15 7. I agree that the Court will calculate my sentencing range under the Sentencing
16 Guidelines. I understand that the Court, while not bound to apply the Guidelines, must consult
17 those Guidelines and take them into account when sentencing. I agree that regardless of the
18 sentence that the Court imposes on me, I will not be entitled, nor will I ask, to withdraw my
19 guilty plea. I also agree that the Sentencing Guidelines range will be calculated as follows and
20 that I will not ask for any other adjustment to or reduction in the offense level or for a downward
21 departure from the Guidelines range:

- | | | |
|----|--|-----------|
| 22 | a. Base Offense Level, U.S.S.G. § 2B1.1(a)(2): | 6 |
| 23 | b. Amount of Loss, U.S.S.G. § 2B1.1(b)(1)(D): | +6 |
| 24 | c. Acceptance of responsibility | |
| 25 | (If I meet the requirements of | |
| | U.S.S.G. § 3E1.1): | <u>-2</u> |
| 26 | d. Adjusted offense level: | 10 |

27 I agree that a sentence within the applicable Guideline range is reasonable and that I will not seek
28 a sentence below the applicable Guideline range. I agree that, regardless of any other provision

1 in this Agreement, the government may and will provide to the Court and the Probation Office all
2 information relevant to the charged offenses or the sentencing decision. I also agree that the
3 Court is not bound by the Sentencing Guidelines calculations above, the Court may conclude that
4 a higher guideline range applies to me, and, if it does, I will not be entitled, nor will I ask, to
5 withdraw my guilty plea.

6 8. I agree that the court may order and I will pay restitution in the amount of
7 \$62,104.18 to Yahoo!, Inc., which has since acquired Alta Vista. I also agree to forfeit the items
8 that were seized from my home on October 8, 2002, including, but not limited to, one (1)
9 Compaq Pentium III Dual Xeon server with no identifying faceplate (serial number
10 D935CMW5A002), one (1) Compaq Professional Workstation AP200 (serial number
11 6925CLH40110), one (1) Sun Ultra2 Creator 3D (serial number 912H4ACA), and various items
12 of computer paraphernalia and computer media (including various floppy disks and CDs). I
13 consent to the forfeiture of those items without further notice to me and I further agree to waive
14 all interest in those items. I agree that I will make a good faith effort to pay any fine, forfeiture or
15 restitution I am ordered to pay. Before or after sentencing, I will, upon request of the Court, the
16 government, or the U.S. Probation Office, provide accurate and complete financial information,
17 submit sworn statements and give depositions under oath concerning my assets and my ability to
18 pay, surrender assets I obtained as a result of my crimes, and release funds and property under my
19 control in order to pay any fine, forfeiture, or restitution. I agree to pay the special assessment at
20 the time of sentencing.

21 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
22 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
23 release (if any); intentionally provide false information to the Court, the Probation Office,
24 Pretrial Services, or the government; or fail to comply with any of the other promises I have
25 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
26 Agreement, then the government will be released from all of its promises in this Agreement,
27 including those set forth in paragraphs 12 through 14 below, but I will not be released from my
28 guilty plea.

10. I agree that this Agreement contains all of the promises and agreements between the government and me, and I will not claim otherwise in the future.

11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern District of California only, and does not bind any other federal, state, or local agency.

The Government's Promises

12. The government agrees to move to dismiss any open charges pending against the defendant in the captioned indictment at the time of sentencing.

13. The government agrees not to file or seek any additional charges against the defendant that could be filed as a result of the investigation that led to the captioned indictment.

14. The government agrees to recommend the Guidelines calculations set out above.

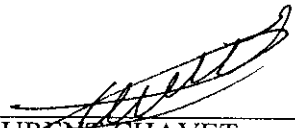
The Defendant's Affirmations

15. I confirm that I have had adequate time to discuss this case, the evidence, and this Agreement with my attorney, and that he has provided me with all the legal advice that I requested.

16. I confirm that while I considered signing this Agreement, and at the time I signed it, I was not under the influence of any alcohol, drug, or medicine.

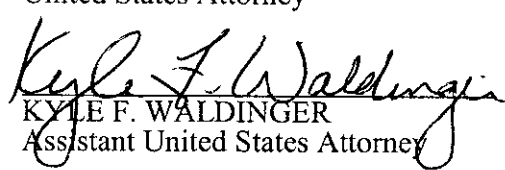
17. I confirm that my decision to enter a guilty plea is made knowing the charges that have been brought against me, any possible defenses, and the benefits and possible detriments of proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or threatened me to enter into this Agreement.

Dated: 4/28/05


LAURENT CHAVET
Defendant

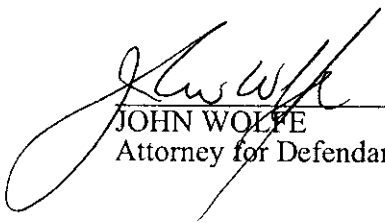
KEVIN V. RYAN
United States Attorney

Dated: 5/3/2005


KYLE F. WALDINGER
Assistant United States Attorney

1 I have fully explained to my client all the rights that a criminal defendant has and all the
2 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
3 and all the rights he is giving up by pleading guilty, and, based on the information now known to
4 me, his decision to plead guilty is knowing and voluntary.

5
6 Dated: 4/28/05


JOHN WOLFE
Attorney for Defendant